

Republic of the Philippines
SUPREME COURT
 Manila

FIRST DIVISION

G.R. No. L-53585 February 15, 1990

ROMULO VILLANUEVA, petitioner,
 vs.
HON. FRANCISCO TANTUICO, JR., and EMILIANA CRUZ, respondents.

Mariano C. Cortezano for petitioner.

NARVASA, J.:

This case treats of the liability of a Government officer of the Bureau of Records Management who was designated Administrative Officer and Training Coordinator of two (2) regional seminars of the Bureau, and who, as such, and having custody of seminar fees collected from the participants, authorized disbursements to certain of the latter for transportation expenses, food, etc. although, as subsequently disclosed, they had already collected and received amounts corresponding to said items from their respective offices.

The officer involved is Romulo Villanueva, petitioner herein. The seminars of his Bureau were organized and conducted pursuant to a directive of the Secretary of General Services with a view to updating records management techniques.¹ The seminar fees were charged against the appropriations of the participants' respective offices in accordance with Memo Circular 830 issued by the Office of the President, authorizing the attendance of records officers from the different government agencies at the seminars. All the fees collected, P43,000.00 in the aggregate, were placed under Villanueva's control and supervision, and were made disbursable only upon his authorization and for the purposes of the seminars specified in Seminar Operation Plans Numbered 001 and 002.

For both seminars, Villanueva authorized disbursements of P41,148.20 in payment of food, snacks, transportation expenses, seminar kits and hand-outs of the participants; hauling services; additional allowance for training staff (including snacks for personnel who worked overtime in preparation for the seminars); hotel bills and *honoraria* of resource speakers. The balance of P1,851.80 was deposited with the Cashier of the Bureau of Records Management after the conclusion of the seminars, this being evidenced by Official Receipt No. 0926496 dated October 8, 1975.

It was subsequently discovered that employees and officers designated to take part in the seminars had earlier collected from the offices or corporations to which they pertained, their transportation expenses, per diems, and other allowances. For this reason, the Auditor of the Bureau of Records Management, herein respondent Emiliana Cruz, disallowed the disbursement of seminar funds in the total amount of P31,949.15 which Villanueva had authorized for the transportation expenses, food and other expenses of said employees and officers. In Auditor Cruz's view, this amount should also have been deposited with the Cashier of the Bureau of Records Management.

Auditor Cruz accordingly wrote to Villanueva demanding restitution of this sum of P31,949.15. Villanueva demurred, claiming that the seminar funds were private funds, and they had been disbursed in pursuance to the objectives of the seminars.

What Cruz did was to cause the issuance to Villanueva of a certificate of permanent disallowance in virtue of which all money collectible by him from the Government would be applied in satisfaction of the amount of P31,949.15 which she had disallowed in audit. She did this in reliance on Section 624 of the Revised Administrative Code, *viz.*:

SEC. 624. When any person is indebted to the Government of the Philippine Islands, the Insular Auditor may direct the proper officer to withhold the payment of any money due him or his estate, the same to be applied in satisfaction of such indebtedness.

Auditor Cruz characterized as an "indebtedness" within the meaning of Section 624, the disbursement of P31,949.15 authorized by Villanueva to certain seminar participants (which she had disallowed as aforesaid). The result was that Villanueva was prevented from receiving (1) his salaries in the total amount of P13,313.30, (2) his transportation and representation expenses as Administrative Officer and Training Coordinator of the seminars amount in to P2,205.00, and (3) the money value of his terminal leave, P14,796.29.

On top of this, Villanueva was charged by the Commission on Audit with malversation of public funds before the Tanodbayan.² The Tanodbayan however dismissed the case upon the Special Prosecutor's finding that the seminar fees were not public funds, and they had been disbursed by Villanueva in good faith. The Commission's motion for reconsideration was denied for lack of merit.

Villanueva then addressed a letter to the President of the Philippines, appealing for reversal of Auditor Cruz's action in preventing the payment of his salaries and other money benefits due him. The matter was referred to the Commission on Audit which however found no cogent reason to recommend favorable action on Villanueva's appeal.³

To obtain relief from these adverse dispositions, Villanueva has instituted the special civil action of *certiorari* at bar, faulting the respondents with having acted with lack or excess of jurisdiction or grave abuse of discretion. He argues that:

- 1) the seminar fees entrusted to him were private, not public funds;
- 2) any conclusion that he "is indebted to the Government" so that, according to Section 624 of the Revised Administrative Code, "any money due him or his estate" may be withheld and "applied in satisfaction of such indebtedness," must proceed from judgment of a competent court, not a mere opinion and pronouncement of an auditor or even by the COA; and
- 3) in any event, he is not in truth "indebted to the Government," no disbursement authorized by him being in violation of the President's Memo Circular 830, or Seminar Regulations Nos. 001 and 002 of the Bureau of Records Management, or any existing auditing rule or regulation.

1. The petitioner's first submission is quickly disposed of. The record shows that the seminar fees collected from seminar participants and entrusted to Villanueva were chargeable against the appropriations of the participants' respective offices or agencies in accordance with the President's Memorandum Circular No. 830. Those fees must therefore be deemed public, not private, funds. The audit of the disbursements of said funds conducted by a government auditor was therefore entirely in order.

2. The ratiocinations and conclusions of the auditor, sustained by the Commission on Audit, are something else. Auditor Cruz made the finding, on the basis of her examination of the relevant records, that Villanueva was indebted to the Government in the sum of P31,949.15 — representing supposedly unauthorized disbursements, which she had consequently disallowed — and in reliance on Section 624 of the Revised Administrative Code, *supra*, the indebtedness may properly be offset against Villanueva's salary and other monetary benefits payable to him by the Government. The proposition is untenable.

While Section 624 of the Revised Administrative Code does indeed authorize the set-off of a person's indebtedness to the Government against "any money due him or his estate to be applied in satisfaction of such indebtedness," that indebtedness must be one that is admitted by the alleged debtor or pronounced by final judgment of a competent court. In such a case, the person and the Government are in their own right both debtors and creditors of each other, and compensation takes place by operation of law in accordance with Article 1278 of the Civil Code.⁴ Absent, however, any such categorical admission by an obligor or final adjudication, no legal compensation can take place, as this Court has already had occasion to rule in an early case.⁵ Unless admitted by a debtor himself, the conclusion that he is in truth indebted to the Government cannot be definitely and finally pronounced by a Government auditor, no matter how convinced he may be from his examination of the pertinent records of the validity of that conclusion. Such a declaration, that a government employee or officer is indeed indebted to the Government, if it is to have binding authority, may only be made by a court. That determination is after all, plainly a judicial, not an administrative function. No executive officer or administrative body possesses such a power.

3. In any case, the record does not show Villanueva to have made illegitimate disbursements of the public funds in his custody for reimbursement of which to the Government he had become obliged. The Court is satisfied that his disbursements were within the letter and contemplation of the Seminar Operation Plans in question, Numbered 001 and 002. The disbursements were for items explicitly specified as authorized expenditures, i.e., food, snacks, transportation, hauling services, additional allowances for the training staff, acquisition costs of seminar kits and hand-outs, and grocery items for the snacks of the training staff who had worked overtime without pay, or for items which were allowable as reasonably necessary expenses for the seminars upon approval (actually given) of the Director of the Bureau of Records Management, such as hotel bills and *honoraria* for resource speakers. There is moreover no showing whatever, contrary to Auditor Cruz's claim, that Villanueva had knowledge at the time of making the disputed disbursements, that some of the seminar participants had already

collected from their home offices or agencies certain amounts to cover some of their expenses for attendance at the seminar. Hence, assuming that some of the participants, after having received certain amounts from their home offices in connection with their participation in the seminars, had again received other amounts for the same purpose from petitioner Villanueva, the liability for that duplication in disbursements should be exacted from the participants concerned, not from Villanueva.

It is difficult, in fine, to discern any irregularity in Villanueva's conduct as officer in charge of the seminars such as would make him a debtor of the Government, it appearing on the contrary that he has done naught but fulfill his duties in good faith and in accordance with the applicable rules and guidelines. He did not deserve the harsh treatment accorded to him in the premises. In meting it out to him, there was grave abuse of discretion.

WHEREFORE, the writ of *certiorari* prayed for is granted, annulling and declaring void *ab initio* the certificate of permanent disallowance issued by Auditor Cruz against petitioner Villanueva and the resolution or order of the Commission on Audit sustaining the same, and ordering the Commission on Audit to cause the immediate payment to the petitioner of the sums rightfully due but improperly withheld from him, i.e., his salaries in the total amount of P13,313.30, the transportation and representation expenses due him as Administrative Officer and Training Coordinator of the seminars in the sum of P2,205.00, and the money value of his terminal leave: P14,796.29.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino and Medialdea, JJ., concur.

Footnotes

1 The participants were the records officers of the various offices and agencies of the national government and of government-owned or -controlled corporations. The first seminar was held in Quezon City from May 7-16, 1975; the second, in Naga City from June 18-27, 1975.

2 The complaint was filed on August 9, 1979 and was docketed as I.S. No. 79-12147.

3 Record, p. 2; Exh. A.

4 ART. 1279 provides that in order that compensation may be proper, it is necessary: (1) that each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other; (2) that both debts consist in a sum of money .. (3) that the two debts be due; (4) that they be liquidated and demandable; (5) that over neither of them there be any retention or controversy, commenced by third person and communicated in due time to the debtor.

5 *La Compania General de Tabacos de Filipinas v. C.H. French, as Auditor of the Philippine Islands, et al.*, 39 Phil. 34.